

## Defending Public Access to our Governments' GeoData

### The Supreme Decision

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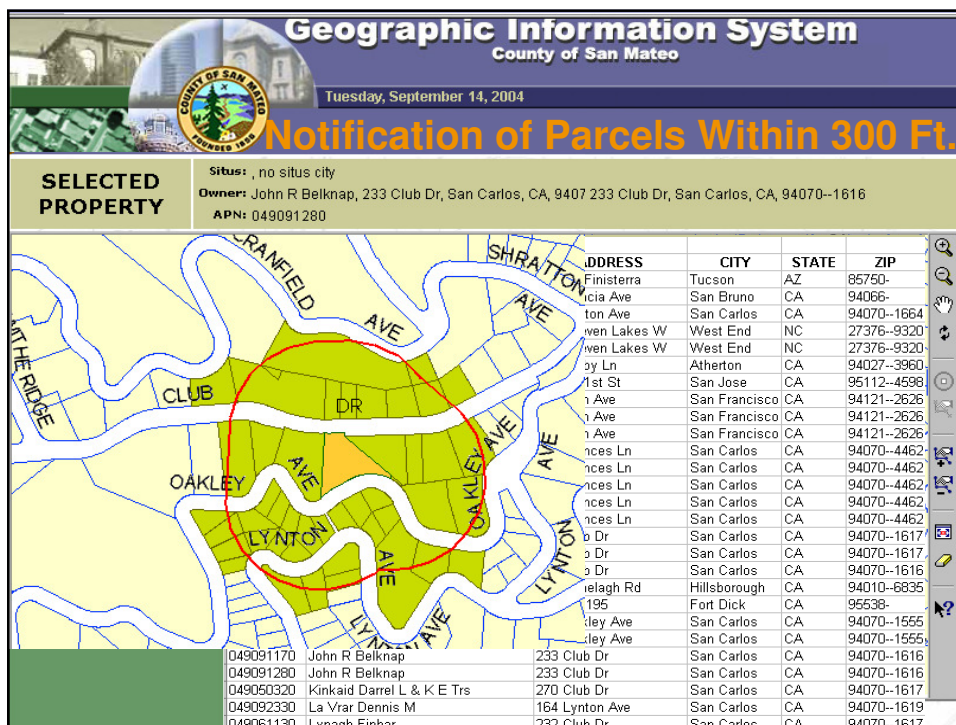
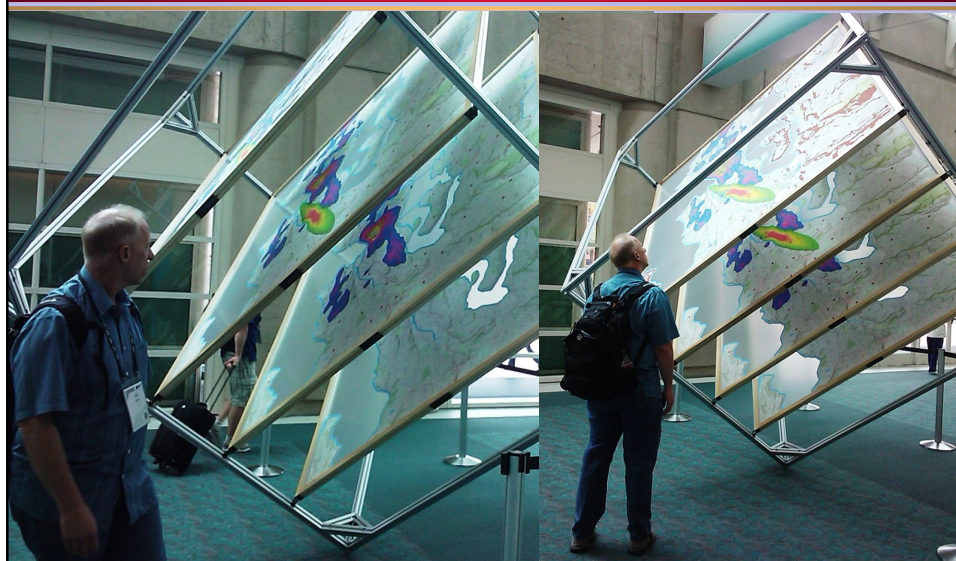
## Agenda

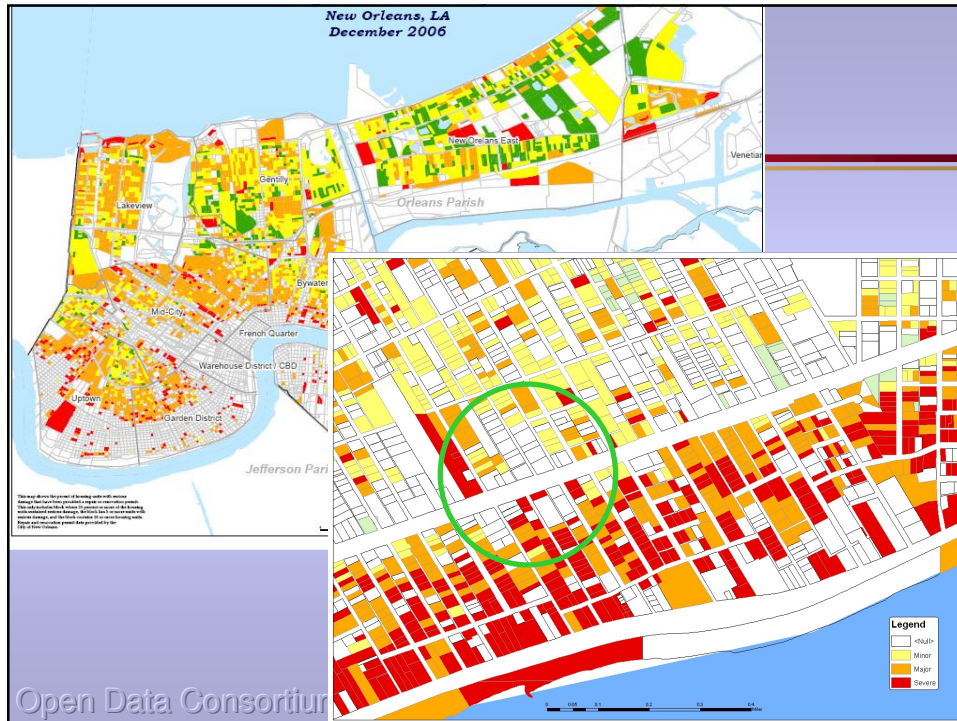
- **Assuring Access to the Data used by our government**
  - Santa Clara County Lawsuit summary
  - **Orange County Lawsuit: current status**
    - Copyright
    - Homeland Security
    - Software, Data, and the meaning of "System"
    - Public Agency Responsibility in a Democracy
    - Citizen Responsibility in a Democracy

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## What Basic Resource Is Needed To Start A Geoanalysis Project?



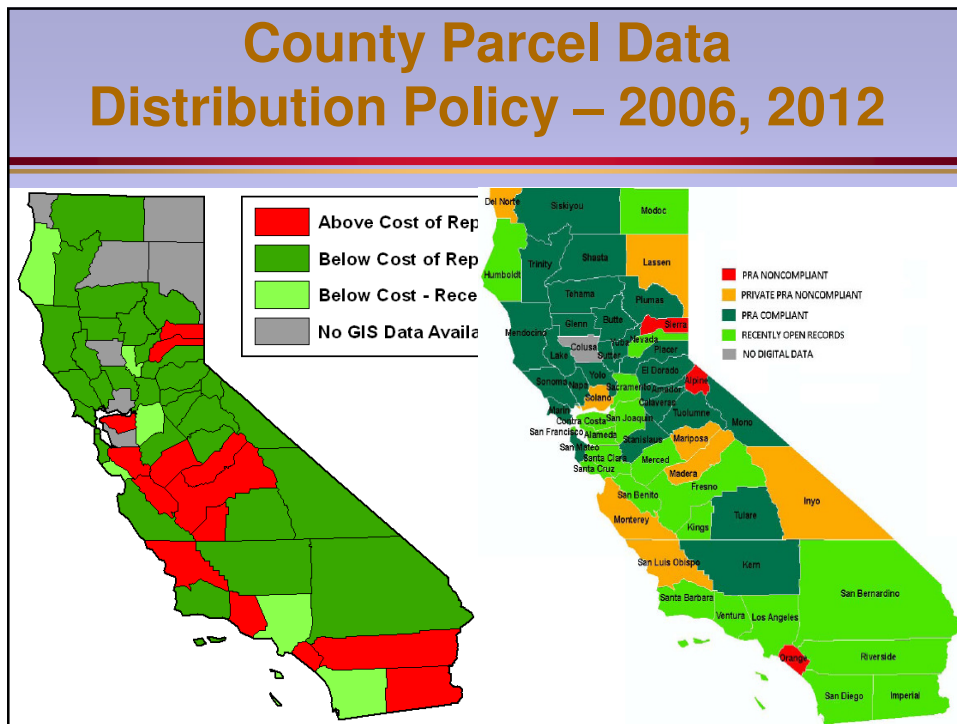


## Geographic Parcel Data in California's 58 Counties

- 49 Provide Parcel Data at No Cost or Cost of Reproduction (\$5 to \$300)
  - 20 Revised their distribution policy since 2004
- 8 Sell Parcel Data for More Than the Cost of Reproduction (over \$500)
  - 5 Use private data provider for their basemap
- 1 Is Not Releasing Parcel Data (says it is not available in digital form)

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## Which Counties Impeded Access to Parcel Data? (2009)

### More Than Cost of Reproduction

- o Orange               \$ 375,000
- o Santa Clara       \$ 158,000
- o Merced             \$ 1,000
- o Sierra             \$ 1,000
- o Alpine             \$ 650

### More Than Cost of Reproduction - Private

- o Solano             \$ 13,400
- o San Luis Obispo   \$ 12,000
- o Madera            \$ 3,123
- o Lassen            \$ 2,500
- o Del Norte         \$ 1,500

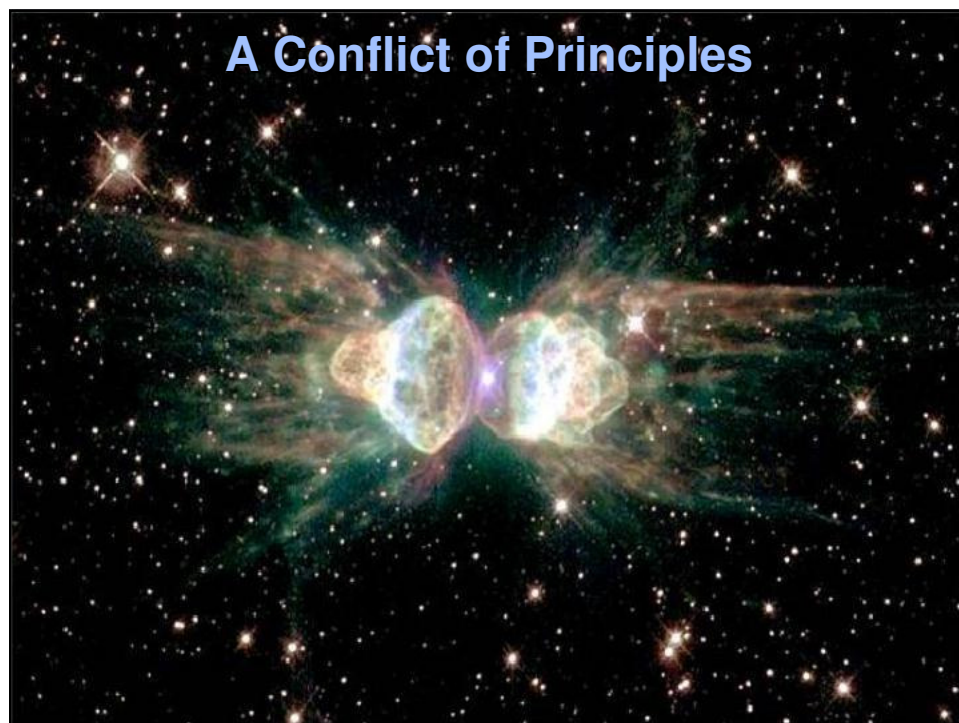
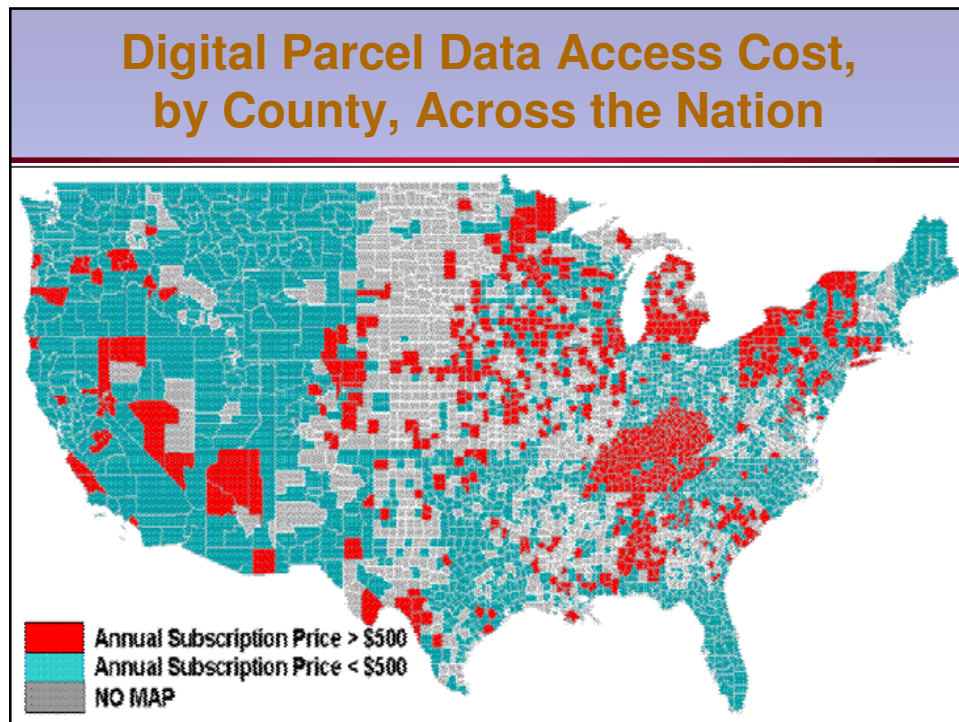
### Data Not Available

- o Colusa

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## Data Distribution Policy Governments' Accountability v. Cost

Public's Right to Public Data  
access to public information  
insures government accountability

" ... the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.. " **CPRA § 6250**

Public Agency's Need to Fund Geodata Operations  
Its ability to create, maintain, and disseminate data depends on funding through Taxes, Fees, Capture of Added Value, State Subsidy, or ~~Data Sale~~.

" ... Yipes! Our department budget was cut "

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## Improving Access to Public Geodata: Strategies for Solution

- Enforcement of Public Records Law
- Use of Standard Data Distribution Policies & License Agreements to Harness the Private Sector for Distributing Data
- Capturing the Value of Using Geodata and Allocating a Portion to Geodata Maintenance
- Data Sharing for Emergency Response: Building Geodata Repositories
- State Government Incentive Payments



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## CA Attorney General's Opinion

October 3, 2005

1. **Parcel boundary map data maintained by a county Assessor in an electronic format is subject to public inspection and copying under provisions of the California Public Record Act.**
2. **A copy of parcel boundary map data maintained in an electronic format by a county assessor must be furnished promptly upon request of a member of the public.**
3. **The fee that may be charged by a county for furnishing a copy of parcel boundary map data maintained in an electronic format by a county assessor is generally limited to the amount that covers the direct cost of producing the copy, but may include certain other costs depending upon the particular circumstances as specified in the California Public Records Act.**

**20 Counties Have Changed Policy to Low or No Cost**

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## What about the 8 counties that are not in compliance with the California Public Records Act?

**The A.G's opinion is not a legal interpretation of the law.**

**A judicial determination must be made in context of a lawsuit.**

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## Enforcement of Public Records Law

**June 12, 2006**

**California First Amendment Coalition sent a Letter of Demand for Data under CPRA 6250 to Santa Clara County**

- o Most current version of the GIS parcel basemap closed polygons, each tagged with APN
- o Each parcel to include these attributes:  
APN, Situs Address, Air Parcel Status & Address, Adr. Annotation
- o Metadata: projection, datum, date of data capture, accuracy
- o Database Dictionary, description of contents
- o In BOTH .shp and ESRI geodatabase (native) Format

**June 26, 2006 Timely Response received: Request REFUSED**

- o AG Opinion does **not** apply to a "sophisticated GIS basemap"
- o Basemap is **copyrighted**
- o Records Exempted by State Law (unspecified)
- o **Computer Mapping System is software** (6254.9)  
claim that .shp files and geodatabase files are software

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## Enforcement of Public Records Law

**October 11, 2006**

**CFAC filed a petition with Superior Court of Santa Clara County (a state court) to enforce the CPRA**

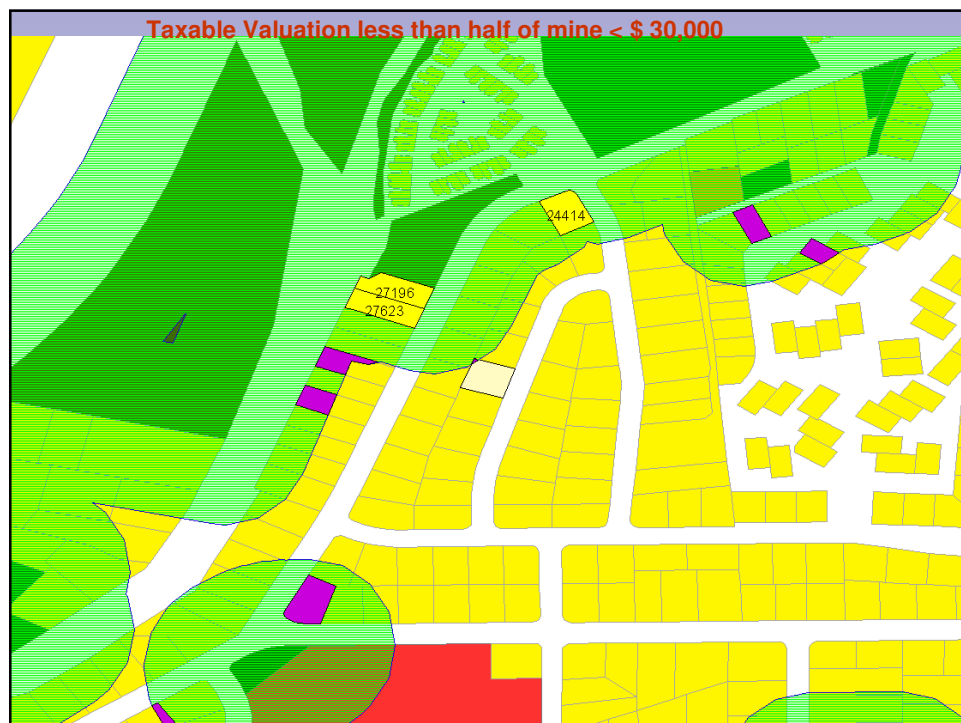
- o As a citizen, CFAC has the right to **view and copy** the County's data, for no more than the **cost of duplication**
- o Citizen's right includes not having to state how the data will be used (therefore, **not bound to sign a non-disclosure agreement**).
- o **GIS basemap data is necessary**, when used with other public information, to monitor and inspect the decisions of public agencies; for example, **Property Tax Assessment, Zoning Variance Approval, Permits**

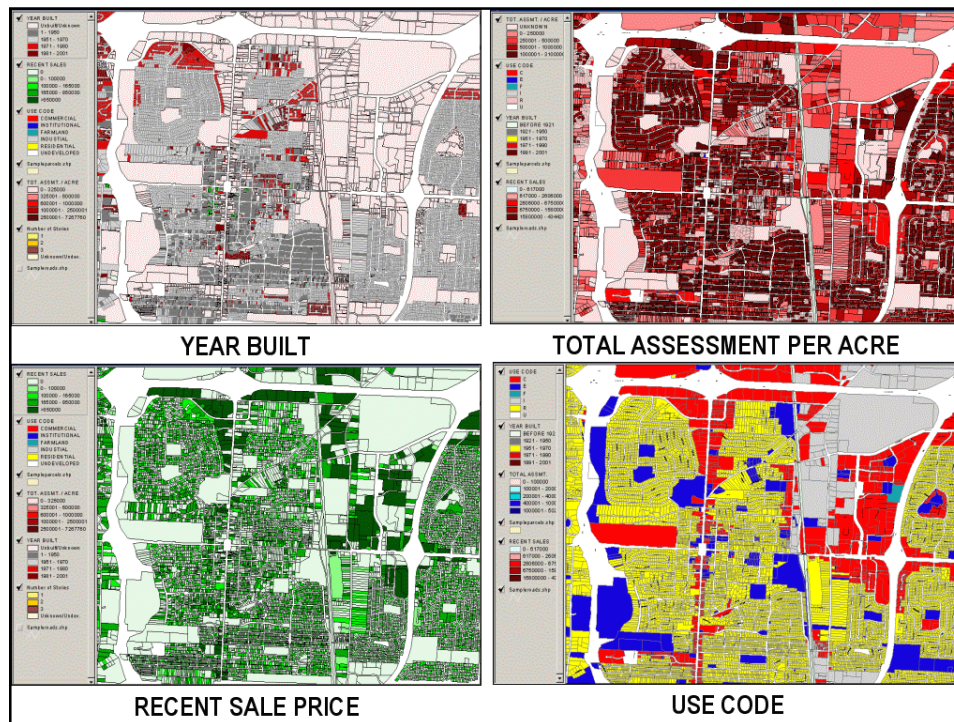
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## Superior Court Decision: VICTORY !

**May 18, 2007** (7 months after petition filed)

**Superior Court directed Santa Clara County to:**

1. Provide CFAC with an electronic copy of the GIS basemap, and
2. Charge CFAC the direct cost for the copy provided.

- Citing the state constitution *"a statute shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access,"* the Court concluded that **the County failed to show a "clear overbalance" on the side of non-disclosure.** *If there's any doubt, data must be given to the requester*

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## Superior Court Decision Appealed VICTORY (?)

June 12, 2007

### County Filed an Appeal:

- "County GIS Basemap is exempt from application of the CPRA because it has been Protected Critical Infrastructure Information (PCII) by the United States Department of Homeland Security"
  - "Release of this sensitive information into the public domain poses a threat to the public at large, ... potentially allowing terrorists to identify the precise location of the Hetch Hetchy water supply system and plan attacks that can disrupt the main water supply to millions of Bay Area residents
  - "The County's request to protect the GIS Basemap from disclosure is ... to protect sensitive infrastructure information not customarily in the public domain."

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## Appeals Court Decision

February 5, 2009

- **Federal homeland security provisions do not apply.**  
Both the Critical Infrastructure Information Act and the accompanying DHS regulations make a distinction between **submitters** of critical infrastructure information (to DHS) and **recipients** of PCII (from DHS). The federal prohibition on disclosure of PCII applies only to **recipients** of PCII from DHS.
- There is **no statutory basis** either for **copyrighting** the GIS basemap or for **conditioning its release on a licensing agreement**.  
"End user restrictions are incompatible with the purposes and operation of the CPRA."
- **The public interest in disclosure outweighs the public interest in nondisclosure.**
- County "remanded" to Superior Court to determine the fee for duplication.

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## Legal Timeline CFAC vs Santa Clara County

	June 2006	- CFAC makes CPRA request for data;
	<u>months</u>	- County refuses the request
0	Oct 2006	- CFAC files suit in Superior Court
4	Feb 2007	- Superior Court Hearing
7	May 2007	- Superior Court Decision (in favor of CFAC)
8	June 2007	- County appeals the decision
17	Mar 2008	- Court of Appeal decides to review case
18	Apr 2008	- Arguments filed
20	June 2008	- Amicus Briefs filed
27	Jan 2009	- Court of Appeal hearing
28	<b>Feb 2009</b>	- <b>Court of Appeal decision (in favor of CFAC)</b>
29	Mar 2009	- County requests <b>depublication</b> ; declines to appeal to California Supreme Court
30	Apr 2009	- Court of Appeal issues "remittur" returning case to Superior Court to determine fee for duplication
31	May 2009	- CA Supreme Court denies request for depublication!
35	<b>Sept 2009</b>	- <b>CFAC receives County's data, verifies content</b>

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## Which Counties Impede Access to Parcel Data? (2013)

### More Than Cost of Reproduction

- o **Orange**                    **\$ 375,000** →during lawsuit, temporarily, \$5,000
- o Alpine                    \$    1,300
- o Sierra                    \$    1,000
- o Del Norte                \$     750

### More Than Cost of Reproduction - Private

- o San Luis Obispo    \$    4,500
- o Madera                \$    2,500
- o Solano                  \$    1,500
- o Lassen                \$    1,200

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## Orange County's Compliance with the Public Records Act

June 21, 2007

**Sierra Club** (Los Angeles chapter) sent a Letter of Request for Data under CPRA 6250 to **Orange County** (Assessor)

July 2, 2007

Request **REFUSED**, County says:

- o AG Opinion in not binding
- o **GIS data is exempt as computer mapping software -- "Software Exemption"**

February 9, 2009

Sierra Club cites Santa Clara County decision requiring PRA compliance

March 5, 2009

County refuses again

April 21, 2009

**Sierra Club** sues **Orange County** with

"Petition for Writ of Mandate to Enforce Public Records Act"

- o Unless Sierra Club obtains the requested public records, the public will be denied information prepared at public expense pertaining to the conduct of the public's business essential to monitor its government

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## What is the Software Exemption?

**§6254.9 (a) Computer software developed by a state or local agency is not itself a public record** under this chapter. The agency may sell, lease, or license the software for commercial or noncommercial use.

**(b) As used in this section, "computer software" includes computer mapping systems, computer programs, and computer graphics systems.**

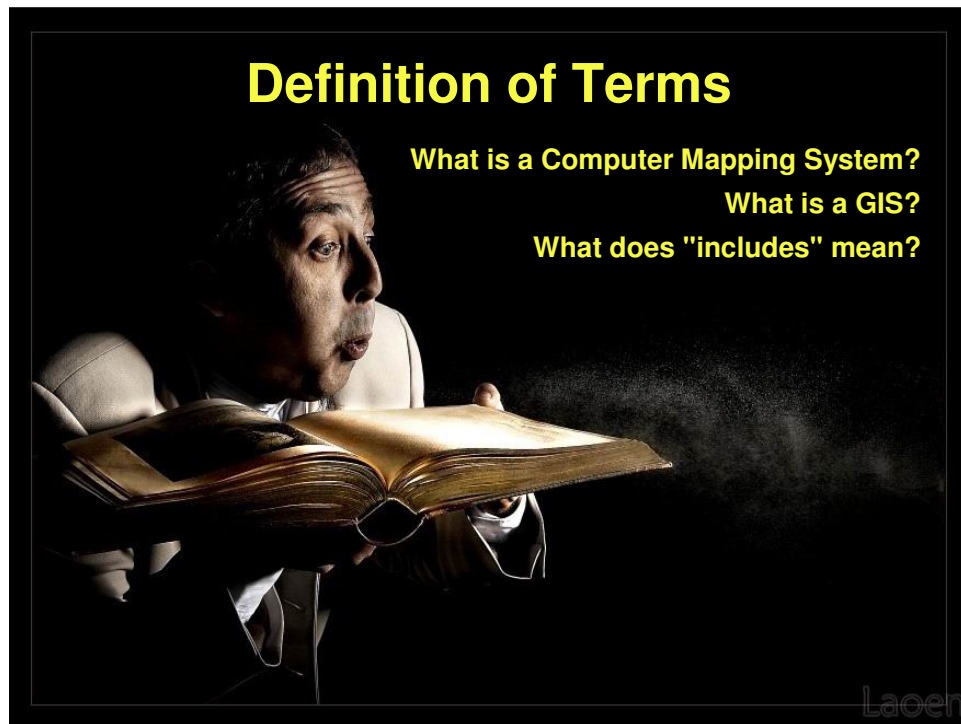
**(c) This section shall not be construed to create an implied warranty on the part of the State of California or any local agency for errors, omissions, or other defects in any computer software as provided pursuant to this section.**

**(d) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this chapter.**

**(e) Nothing in this section is intended to limit any copyright protections.**

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## What is a CMS?

- **County says Computer Mapping System is an earlier version of GIS**
- **Sierra Club says CMS is an earlier type of mapping software; it is not GIS**
  - Computer Graphics
  - CAD
  - Automated Mapping System - AMS (Computer Mapping System - CMS)
  - AM/FM
  - GIS

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## What is GIS?

- **County cites ESRI definition, and others:**  
 "An integrated collection of computer software and data used to view and manage information about geographic places, analyze spatial relationships, and model spatial processes.  
 A GIS provides a framework for gathering and organizing spatial data and related information so that it can be displayed and analyzed."  
 -- GIS From A to Z
- **County's Argument:**
  - GIS includes software and data
  - County's O.C. Landbase is a GIS
  - GIS is a type of CMS
  - CMS is excluded by §6254.9
  - Therefore, O.C.'s GIS Landbase data is excluded
- **ESRI definition should have said:**  
 "A collection of computer software used to integrate data to view ..."

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## What is a Geographic Information System? What is "System"

"A GIS provides a framework for gathering and organizing spatial data and related information so that it can be displayed and analyzed."

- **Sierra Club's Argument**
  - GIS "System" refers to all the elements necessary to make use of GIS technology, including:
    - Hardware
    - Software
    - Data
    - Application Programming and Data Models
    - Staffing and Training
    - Administration / Management
    - Maintenance Procedures and Standards
    - Financing
  - CMS "system" refers to software modules; "CMS" does not mean "GIS"
  - A "framework for data" can not also be data; GIS (software) is distinct from GIS data
  - § 6254.9 (d) makes it clear:  
Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this chapter.

- **County says applies to "information" not the format of the information**

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## What Does "Includes" Mean?

§6254.9 (b) As used in this section, "computer software" **includes** computer mapping systems, computer programs, and computer graphics systems.

Sierra Club says "computer mapping systems, computer programs, and computer graphics systems" are **examples** of software.

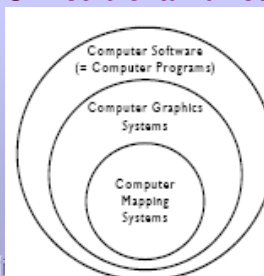
County says "computer mapping systems, computer programs, and computer graphics systems" is an **enlargement** of the definition of software.

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## What Does "Includes" Mean?

- Sierra Club said:
  - The plain-meaning interpretation: "Computer software" has the same meaning when used in its common and its technical senses. **"Includes Clause" provides illustrative examples** of types of computer software, but **does not enlarge** the definition.
  - The County's **expanded-meaning interpretation**: Three enumerated items "computer mapping systems, computer programs, and computer graphics systems" would entail all computer-resident data.



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## Judicial Decision: Landbase database is exempt under software exemption

- **May 21, 2010**  
**Court decided in favor of Orange County**
  - "This Court credits the County's evidence ... that the OC Landbase in a GIS file format is part of a computer mapping system. To that end, the OC Landbase is not a public record."
  - "Section 6254.9 creates an exemption for GIS file formatted data, but it nevertheless guarantees the public access to non-GIS formatted records containing information stored in a GIS ..."

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## "Responsive Records"?

- **County offers copies Assessor parcel maps, tract maps, records of survey, etc., at \$0.15 per page, for 640,000 parcels**
- **Sierra Club explains that GIS-structured data is necessary to duplicate or monitor County's GIS analysis (conduct of the public's business).**
  - Parcel database can be analyzed as a whole by GIS software in ways that are impossible with data in a non-GIS format.
  - Sierra Club has its own GIS software, just requests County's GIS database.
  - O.C. Landbase can export data without exporting any County software, and has done so previously (GreenInfo Network, 2006).
- **Cost of copying thousands of pages is prohibitive; access to information through piles of paper is impeded**

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## "Responsive Records"?

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  - O.C. Landbase can export data without exporting any County software, and has done so previously (GreenInfo Network, 2006).
- Cost of copying thousands of pages is prohibitive; access to information through piles of paper is impeded
- Aug 9, 2010  
Court issued final Statement of Decision for Orange County

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## The Fight Continues: Sierra Club Appeals the Decision

August 27, 2010

Sierra Club files petition to the Court of Appeal

- The OC Landbase contains data only. It does not contain software.
- The trial court's interpretation **goes against Legislature's intent**.  
Upon introduction, the bill (AB3265) was immediately amended:
  - Assembly Bill No. 3265: "Nothing in this chapter prohibits an agency from **selling proprietary information** or requiring a licensing agreement for **payment of royalties** to the agency prior to any subsequent sale, distribution, or commercial use of the **proprietary information** by any person receiving the information. "**Proprietary information**" includes **computer readable data bases, computer programs, and computer graphics systems.**"
  - Assembly amendment **changed** the term "**proprietary information**" to "**computer software.**"
  - Senate amendment **replaced** the term "**computer readable data bases**" with "**computer mapping systems.**"

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## The Fight Continues: Orange County Argues Sierra Club Appeal

September 13, 2010, Orange County says:

- Case is not about a denial of access to information, but whether this information must be produced in a particular format. **Is GIS-compatible format public record?**
- "Definition" of GIS says that data is part of GIS and County's expert says CMS is actually a GIS. Therefore GIS data is exempt from public records disclosure under §6254.9 (b)
- County spent millions of dollars to develop and maintain its Landbase ... **needs to recoup its costs.**
- The Attorney General misinterpreted Section 6254.9 by adopting a construction that essentially redacts the term "computer mapping system" from the statute.

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## Orange County Wins Appeal

May 31, 2011 – Court of Appeal concludes: "§6254.9 excludes from the Act's disclosure requirements for a geographic information system database like the one at issue here."

- "Whether the increasing use of GIS data in our society requires reconsideration of section 6254.9's exclusion from disclosure is a matter of public policy for the Legislature to consider."

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## Sierra Club Appeals to California Supreme Court

- July 11, 2011 – Sierra Club files CSC appeal.
- Sept 10, 2011 – GIS Amicus letter asking to hear the case
  - 11 GIS Organizations
  - 72 Individual GIS Professionals
- Sept 14, 2011 – **CA Supreme Court agrees to hear the case**
- Nov 14, 2011 – Sierra Club's brief filed
- Dec 15, 2011 – Orange County's answer brief filed
- Feb 6, 2012 – Sierra Club's rebuttal brief filed
- March 5, 2012 – 9 Amicus Briefs filed
  - 7 in support of Sierra Club, including GIS Community Brief:
    - 23 GIS Organizations
    - 212 Individual GIS Professionals
  - 2 in support of Orange County
- May 7, 2013 – Hearing before the CA Supreme Court

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## GIS Community Amicus Brief

- "Computer Mapping System" refers to software and only software;** it does not include data. GIS data should not be considered different from any other public record data that government agencies use in conducting the people's business.
- GIS-compatible **database structure is an intrinsic and necessary part** of Orange County's OC Landbase. **.PDF files do not substitute.**
- The consequences of removing GIS-readable parcel data from the public domain threatens citizens, **other counties and cities** in many ways.
- Removing GIS-readable parcel data from the public domain counters explicit **national and Federal data policies**.
- Some counties' policy of excluding GIS data from the public domain is currently causing **expensive, negative impacts on CA state government**.
- The 4th District Court, and Orange County, may have misunderstood the concept of **"system"** in the context of section 6254.9(b).
- Excel analogy** to better understand the relationship between software and data.

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## GIS Community Amicus Brief

- 212 Individual GIS Professionals

- 23 GIS Professionals' Organizations

**AAG** - Association of American Geographers  
Advancement Project, Healthy City

**BAAMA** Chapter of **URISA** - Bay Area Automated Mapping Association, Board of Directors

**CaGIS** - Cartography and Geographic Information Society

**CALI** - California Association of Licensed Investigators

**Californians Aware**

**CUGOS** - Cascadia Users of Geospatial Open Source

Davis Demographics & Planning, Inc.

**DMTI** Spatial

**GeoTec Media**

**GITA** - Geospatial Information Technology Association

**GreenInfo Network**

Latitude Geographics Group Ltd.

**NACIS** - North American Cartographic Information Society

**NSGIC** - National States Geographic Information Council

Oregon Natural Desert Association

**OSGeo** - Open Source Geospatial Foundation

Pacific Institute

Pacific Institute for Research & Evaluation

**Southern California Chapter of URISA**

Urban Strategies Council

**Vector1Media**

**WIGICC** - Wisconsin Geographic Information Coordination Council

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## It's About TEAMWORK



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## CA Supreme Court Hearing

May 7, 2013

A few excerpts:

- A Court Justice (CJ) asked Sierra Club (SCa) - When the Legislature has defined a term, that term replaces the word's "ordinary meaning," but here, the PRA does not define "software" nor "computer mapping system," so those terms' ordinary meaning remain, "is that the crux of your argument?"  
SCa - apparently wary that she was being invited to step into a trap answered vaguely, to which the CJ replied, "I'm trying to help you out here!"
- CJ - Do you agree that 49 [out of California's 58] counties are able to provide their GIS database according to the CPRA?  
OCa - Yes.  
CJ - Why can't Orange County afford to provide the data at the cost of duplication if 49 other counties can do so?
- CJ asked Orange County (OCa) - Are you saying that there are two kinds of public record, one being exempt?  
OCa - Yes, but we are not withholding "the data," however "the system" costs us a lot of money ... 26% of the annual operating cost of \$781,000, which we receive from data sales, shouldn't burden our taxpayers.  
CJ - What does the \$781,000 pay for?  
OCa - Computers, software, and ...  
CJ - Aren't computers simply a fixed cost of doing business?  
OCa - ... it pays for personnel to input the data.  
CJ - Isn't this the same for any county department? Wouldn't the exemption that pertains to "computer programs" as well as "computer mapping systems" therefore exempt all county data where there is a cost to inputting new data, say into a Word program?

July 8, 2013

## Supreme Court Decision: VICTORY!

- Openness in government is essential to the functioning of a democracy.  
Implicit in the democratic process is the notion that government should be accountable for its actions.  
In order to verify accountability, individuals must have access to government files.
- We believe the public records exemption for "computer software," a term that "includes computer mapping systems," does not cover GIS-formatted databases like the OC Landbase at issue here.
- The County must produce the OC Landbase in response to Sierra Club's request "in any electronic format in which it holds the information" (§ 6253.9(a)(1)) "at a cost not to exceed the direct cost of duplication (§ 6253.9(a)(2))."

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## Supreme Court Decision: further discussion

- What the parties dispute is whether the OC Landbase *in a GIS file format* is a public record that must be disclosed in that format pursuant to the PRA.
- The analysis leads us to conclude that although the term “computer mapping systems” by itself is ambiguous, the ordinary meaning of “computer software” supports Sierra Club’s contention that **the public records exemption for computer mapping systems covers GIS mapping software but not GIS-formatted data.**
- Any remaining doubt about the proper interpretation of 6254.9 is dispelled by the interpretive rule in Article I, Section 3, Subdivision (b)(2), of the California Constitution: **“A statute, court rule, or other authority ... shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.”**
- To the extent that the term “computer mapping system” is ambiguous, the constitutional canon requires us to interpret it in a way that **maximizes the public’s access to information, unless the Legislature has expressly provided to the contrary.**

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## Supreme Court Decision: further discussion

And a final endorsement of the Attorney General's opinion:

We note that this interpretation is consistent with a 2005 opinion letter issued by the Attorney General ... **“the term ‘computer mapping systems’ in section 6254.9 does not refer to or include basic maps and boundary information per se (i.e., the basic *data* compiled, updated, and maintained by county assessors), but rather **denotes unique computer *programs* to process such data using mapping functions ...**”**

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Legal Timeline Sierra Club vs Orange County	
June 2007	- Sierra Club makes CPRA request for data
July 2007	- Orange County refuses
April 2008	- Sierra Club makes CPRA request for data
June 2008	- Orange County refuses
Feb 2009	- Sierra Club makes CPRA request for data
March 2009	- Orange County refuses
March 2009	- Sierra Club makes CPRA request for data
April 2009	- Orange County refuses
Months 0 April 2009	- <b>Sierra Club files suit in Superior Court</b>
7 Nov 2009	- Superior Court Tentative Ruling (in favor of Orange County)
12 April 2010	- Evidentiary Hearing
12 April 2010	- <b>Trial Court ruled in favor of Orange County</b>
16 Aug 2010	- Court issues final Statement of Decision
16 Aug 2010	- Sierra Club petition to Court of Appeal
17 Sept 2010	- Orange County responds (final response Nov 2010)
21 Jan 2011	- Amicus Briefs filed
23 March 2011	- Oral Arguments in Court of Appeal
26 June 2011	- <b>Court of Appeal decides in favor of Orange County</b>
27 July 2011	- Sierra Club appeals to California Supreme Court
29 Sept 2011	- <b>CA Supreme Court agrees to hear the case</b>
31 Nov 2011	- Sierra Club's brief filed
32 Dec 2011	- OC's brief filed
34 Feb 2012	- Sierra Club's rebuttal brief
35 Mar 2012	- Amicus Briefs filed
49 May 2013	- Hearing before the CA Supreme Court
51 July 2013	- <b>CA Supreme Court decides in favor of Sierra Club</b>
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Meanwhile, back in Santa Clara County
<ul style="list-style-type: none"> <li>• <b>No new basemap data have been released since the April, 2009 version</b></li> <li>• <b>County claims it isn't maintaining nor distributing more current data</b> But, They offer on-line subscription to current database for \$14,000+ per year.</li> <li>• <b>While the 2009 version contained situs address and APNs, they now sell the situs-APN table for an extra \$2,000!</b></li> </ul>
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**Are We Surfing the Public's GeoData ?**

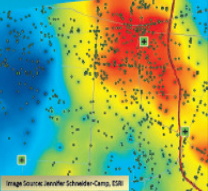



**Or ...**



## Geospatial Data Sharing

### Guidelines for Best Practices

**Geospatial data**  
Identify and relate the geographic location of features and boundaries. They are stored in databases that include descriptive attribute information about locations, allowing the information to be mapped. Geospatial data enable government, consumer and business applications. These data are accessed, manipulated or analyzed through Geographic Information Systems (GIS).

**Introduction**  
The National States Geographic Information Council (NSGIC) strongly believes that open sharing of geospatial data is in the best interest of our communities, states and nation. One of our goals is to make all non-sensitive geospatial data, produced or maintained using taxpayer funds, a part of the public record.

To realize this goal, NSGIC recommends that spatial data providers work to change any existing policies that inhibit geospatial data sharing. All states have **public records laws** that govern how data can be used. These laws require public access to government data and apply to local as well as state governments. NSGIC encourages data custodians to become acquainted with their state's public records law and to work toward its broad, open interpretation.

Savvy organizations creating geospatial data recognize the value of these data to the decision-making process. They also appreciate the need for current and accurate geospatial data in decisions affecting economic development, social services, public safety, emergency management, human or environmental health, agriculture, natural resources, planning and

Government administrators, geospatial professionals and concerned citizens will continue advancing the use of public geospatial data assets in new areas. This effectively increases their agency's return on investment.

NSGIC will work to remove the obstacles that prevent open access to geospatial data, and help to develop data and technology standards and partnerships that support and enable a sustainable data sharing model.

**The Value of Accessible Geospatial Data**  
Access to public records is an essential component of our democracy that keeps citizens informed and our government accountable. These records include geospatial data produced or maintained using taxpayer resources. For this reason alone, and with certain narrow exceptions, geospatial data should be made available to the general public in the format that government analysts use, including computer readable and GIS-compatible formats.

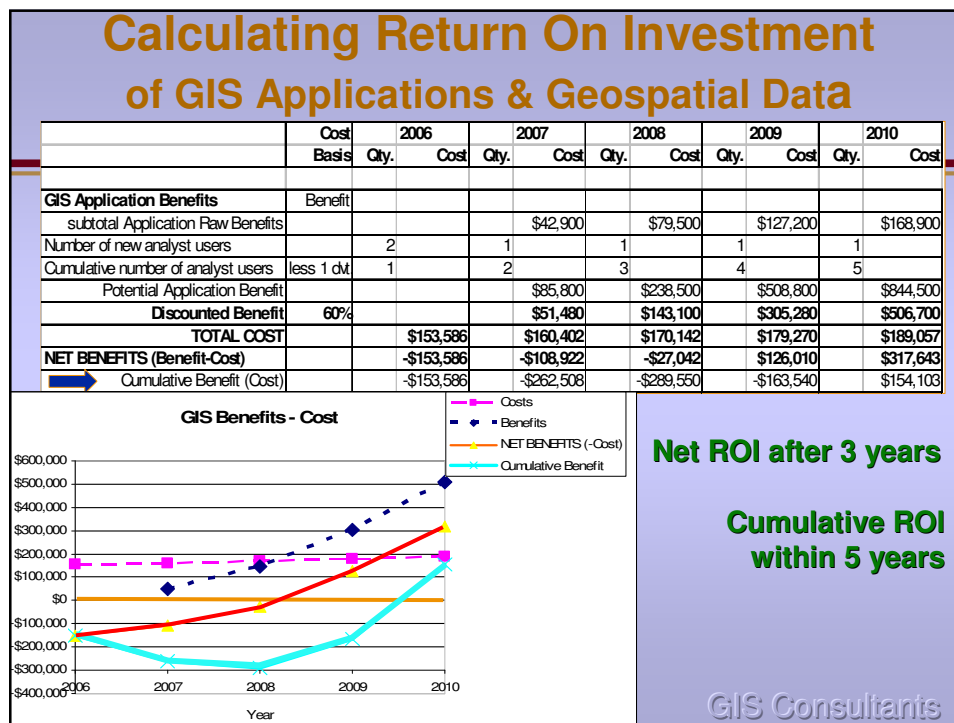
Easy public access to the most current and relevant geospatial data provides a number of other societal benefits as well. One such benefit is

## Understanding the Return on Investment of GIS & Geodata

- 1 – Geospatial data returns more value to the agency than its cost.
- 2 – The more users = the more value accrued.
- 3 – Counties with data sharing policies have more economic development than counties with data selling policies.
- 4 – To support its GIS operations, an agency needs to:
  - o Track the costs saved
  - o Track the added revenue
  - o Allocate a portion of the ROI to GIS maintenance and operations

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**www.NSGIC.org**

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## My Opinion

- 49 California counties have developed and are maintaining similarly expensive GIS databases without selling their data. **"Poor fiscal management should not be an exemption for access to public records."**
- Government agencies decided to expend the cost of building a GIS database because of the benefits that GIS would provide them in fulfilling their mandated tasks. **"These benefits are return enough on their investment and do not justify additional revenue from data sales."**
- GIS Professionals must be aware of and involved with public policy issues that they can affect and that affect our society

## Liberty Requires Vigilance

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## Vigilance = Participation + Teamwork

- GIS Professionals must be aware of and involved with public policy issues that they can affect and that affect our society.
  - We have special knowledge that can assist public policy.
  - Public Policy issues arise that affect our profession.
  - **Our participation in the public forum is necessary!** Both for us, and for our national, state, and local communities.

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## Good News ... from the White House ...

- **Executive Order 13642 -- Making Open and Machine Readable the New Default for Government Information**  
<http://www.whitehouse.gov/the-press-office/2013/05/09/executive-order-making-open-and-machine-readable-new-default-government>  
**Government information** resources shall be **open and machine readable**. Government information shall be **managed as an asset** throughout its life cycle to promote interoperability and openness, and, wherever possible and legally permissible, to ensure that data are released to the public in ways that make the data **easy to find, accessible, and usable**.
- **OMB: Open Data Policy-Managing Information as an Asset**  
<http://www.whitehouse.gov/sites/default/files/omb/memoranda/2013/m-13-13.pdf>

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## ... but, Threats on the Horizon ...

- HR 1604 – to establish a National Geospatial Technology Administration – "Map It Once, Use It Many Times act"**  
<http://www.govtrack.us/congress/bills/113/hr1604#>  
Rep. Doug Lamborn [R-CO]
- **Section 103 (e) "Funding Strategy" -- (2) "the establishment of user fees for the National Geospatial Database"**
  - In addition to the "fee for data" issue, there also is a good reason why different agencies order different mapping contracts for the same area: **differing requirements for accuracy, precision, imagery spectrum, LIDAR, SAR, and update timing**. How are all those to be reconciled with a "map once" requirement? Many apparent "duplications" are actually a response to different requirements.

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## In California's 2013 Budget: a close call SB 71

**Friday, June 14** – CA Legislature passes budget On Time  
(first time in over a decade).

- Also passed – several "trailer" bills with budgetary "adjustments" ...  
... Including (buried within) ...
- Section 4 – would make CPRA **optional**. "Eliminates the requirement of existing law that agencies must make available 'electronic records' or 'information in any format in which the agency already holds them'."

**Sunday, June 16** – First Amendment Coalition sends warning to its supporters

**Monday, June 17** – GIS supporters of PRA receive call to action:  
email the Governor to VETO SB 71

**Wednesday, June 19** – Governor refuses to veto, but at same time, newspapers all over California print VETO editorials and articles.  
Letters to Governor pouring in.

**Thursday, June 20** – confusion – conflicting stories.  
Late in the day, Senate re-writes SB 71 without Section 4; Governor reverses policy and agrees to leave PRA legal requirements in tact.

**TAKE AWAY: Be Alert,  
Stay Connected with reliable sources of information;  
Act Quickly when the need arises**

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## TEAMWORK = Participation



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**What Can You Do To Preserve Access To GIS Data?**



**Your Opinion?**

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## Reference Links

- Supreme Court decision at  
[http://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc\\_id=1985061&doc\\_no=S194708](http://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc_id=1985061&doc_no=S194708)
- Court timeline at  
[http://appellatecases.courtinfo.ca.gov/search/dockets.cfm?dist=0&doc\\_id=1985061&q=110968&h=964387314](http://appellatecases.courtinfo.ca.gov/search/dockets.cfm?dist=0&doc_id=1985061&q=110968&h=964387314)
- Court documents at  
<http://www.calpubrec.org/oclawsuit/appeal/index.html>
- General Information at  
<http://www.OpenDataConsortium.net>
- NSGIC Data Sharing Guidelines  
<http://www.nsgic.org/data-sharing-work-group>

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## Defending Public Access to our Governments' GeoData

### The Supreme Decision

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